

U.S. Application Serial No. 10/614,436

REMARKS

Applicant would initially like to thank the Examiner for the courtesy telephone interview extended to Applicant's attorney on October 18, 2006, in which the Examiner indicated that she would reconsider the present application in view of the distinguishing features that exist between Applicant's invention and the prior art discussed during the interview.

1. Section 103 Rejections:

Claims 41-46 stand rejected under 35 U.S.C. 103(a) as being unpatentable over an article published by Higgs (Extensions to and refurbishment of Menlyn Park Shopping Centre, Pretoria) (hereinafter "Higgs Article"), in view of Herzfeld et al.

Claims 47-49, 51-53 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the Higgs Article.

Claims 55-60 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the Higgs Article as applied to claim 51 and in view of Herzfeld et al.

Claims 50-54 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the Higgs Article, as applied to claims 47 and 49 in view of Simens, and as applied to claims 47 and 49 and Allen.

In the Office Action, the Examiner alleges the following:

- a. That the tent shown in the Higgs Article essentially reads on the "second building" in claims 41, 47 and 51.
- b. That the "second building" in claims 41, 47 and 51 does not equate to "an extension of the parking garage." In this respect, the Examiner alleged that the specification only states that "the top floor 11 of the parking garage 1 of this embodiment is preferably rectangular in shape, with the projector housing or building 25 extending along one end thereof."
- c. That the Higgs Article does not disclose the screen extending from the "second building" (insofar as the Examiner deems the tent to read on the second building).
- d. That the Higgs Article teaches a "substantial visual barrier extending around three sides of the parking garage, to substantially block the view of the screen from outside." In this respect, because the Examiner alleges that the tent reads

U.S. Application Serial No. 10/614,436

on the "second building," she alleges that it forms a visual barrier that can block the view of the screen from the street.

In response to these rejections, and in connection with the recommendations made by the Examiner at the interview, Applicant has canceled the existing claims, and has submitted the new claims, above.

In the new claims, Applicant has attempted to distinguish the features shown in Figures 1 and 4 of Applicant's invention, from the features shown in Figure 6 of the Higgs Article. In this respect, Applicant would like to identify what was discussed at the interview, which the Examiner acknowledged could form the basis for distinguishing Applicant's invention over the prior Higgs Article. That is, Applicant stated, and the Examiner acknowledged, that the claims could be distinguished over the Higgs Article by focusing on the specific differences that exist between how the projector housing 25, shown in Figures 1 and 4 of Applicant's drawings, is constructed, and how the tent-like structure, shown in Figure 6 of the Higgs Article, is constructed.

For example, in Applicant's new claims 61 and 74, Applicant has specified that the second building is "substantially constructed on top of said top parking level," and "comprises substantially rigid and vertical walls extending upward from said top parking level (emphasis added)."

In new claim 74, Applicant has also specified that the substantially rigid and vertical walls extending from said top parking level follows "a substantially rectangular pattern associated with said parking garage."

In new claim 71, Applicant has specified that the second building "Is substantially built into said parking garage, and is made with walls and floors that follow a substantially rectangular pattern associated with said parking garage."

For all of these reasons, Applicant respectfully submits that new claims 61 and 74, and their dependent claims, have been amended in a manner which the Examiner has already indicated at the interview could distinguish the Applicant's claims over the Higgs Article. In particular, the amendments above are specifically intended to distinguish the features of Applicant's second building 25, shown in Figures 1 and 4 of Applicant's drawings, from the tent-like structure, with four posts, and fabric extending at an angle along a slope, shown in Figure 6 of the Higgs Article.

U.S. Application Serial No. 10/614,436

Applicant also respectfully submits that the second building 25, as described in the new claims, are disclosed in Figures 1 and 4 of Applicant's drawings, and on pages 9 and 10 of the specification. In this respect, it should be clear that the walls of the second building are rigid, insofar as they are shown as being constructed as extensions of the parking garage, i.e., see cross-hatching on sides of second building 25 on Figure 1, and the second building 25 built into the parking garage, as shown in Figure 4.

Applicant will now respond to each of the Examiner's allegations in kind.

- a. Applicant respectfully submits that the tent shown in the Higgs Article does not read on the "second building" as specified in the new claims.

The following is an excerpt from the pertinent language of new claim 61 above, relating to the second building:

"a second building for housing a projector substantially constructed on top of said top parking level, and located at said first end, wherein said second building comprises substantially rigid and vertical walls extending upward from said top parking level"

The following is an excerpt from the pertinent language of claim 74, relating to the second building:

"a second building for housing a projector substantially constructed on top of said top parking level, and located at said first end, wherein said second building comprises substantially rigid and vertical walls extending upward from said top parking level, and follows a substantially rectangular pattern associated with said parking garage;"

Clearly, there are differences between the "second building" specified above, and the tent shown in the Higgs Article, as follows:

First, the "second building" as specified in claims 61 and 74 is "constructed on top of the top parking level, and has substantially rigid and vertical walls extending upward from the top parking level." On the other hand, the "tent" sitting on top of the parking garage shown in the Higgs Article has four posts, and fabric extending at an angle along a slope, and therefore, does not have substantially rigid and vertical walls.

This should be clear, by looking at Figures 1 and 4 of applicant's drawings. In Figure 1, the "second building" is shown on the right hand side, wherein the side wall of the second building is "cross hatched." As can be seen, the cross hatching extends upward

U.S. Application Serial No. 10/614,436

from the top level of the parking garage, indicating that the side walls extend rigidly and vertically upward from the top parking level. Also, in Figure 4, the "second building" is shown on the right hand side of the parking garage, wherein the floor immediately below the projector extends below the top level, and into the level below. Therefore, it should be clear that the second building extends upward above the top level of the parking garage, and that the side walls extend rigidly and vertically upward from the top parking level.

These drawings also clearly show that the walls follow along a rectangular pattern associated with the parking garage.

Clearly, the tent shown in the Higgs Article simply sits on top of the parking garage and does not have substantially vertical and rigid walls, and does not follow along a rectangular pattern associated with the parking garage.

For these reasons, it should be clear that the tent shown in Figure 6 of the Higgs Article does not read on the "second building" in claims 61 and 74.

b. Applicant respectfully submits that the "second building" in claims 61 and 74 is sufficiently disclosed in the specification and drawings

The Examiner incorrectly assumes that the only meaningful disclosure regarding the construction of the second building is contained in the written text of the specification, and completely disregards the significance of the drawings.

On one hand, the Examiner alleges that the specification only states that "the top floor 11 of the parking garage 1 of this embodiment is preferably rectangular in shape, with the projector housing or building 25 extending along one end thereof." But Applicant respectfully submits that Figures 1 and 4 of Applicant's drawings clearly show the construction and configuration of the second building.

For example, in Figure 1, the cross hatched side wall extends upward from the top level of the parking garage, clearly indicating that the second building has substantially rigid and vertical walls. The walls are also shown as having a rectangular pattern, as specified in claims 71 and 74. Moreover, in Figure 4, the walls and floors of the second building are clearly shown as being built into the top level of the parking garage, indicating that the walls are substantially rigid and vertical, and extend in a substantially rectangular pattern. Accordingly, Applicant respectfully submits that there is sufficient support in Applicant's specification, and drawings, for the "second building" specified in claims 61 and 74, which has substantially rigid and vertical walls. They also support the proposition set forth in

U.S. Application Serial No. 10/614,436

claims 71 and 74 that the walls extend along a rectangular pattern associated with the parking garage.

- c. Applicant respectfully submits that the Higgs Article discloses the screen extending from the same end of the parking garage as the "second building."

Figure 6 of the Higgs Article discloses a structure on the right hand side which appears to have substantially rigid and vertical walls extending upward from the parking garage. This is the only building on top of the parking garage shown in the Higgs Article that could potentially read on the second building specified in claims 61 and 74.

But unlike Applicant's invention, the screen in the Higgs Article is shown as being located on the right hand side, extending upward from that structure, i.e., having rigid and vertical walls, on the opposite end of the parking garage. Since this structure is the only structure shown in Figure 6 of the Higgs Article that could potentially be the "second building" of claims 61, and 74, then it should be clear that the screen in the Higgs Article actually extends from the same end of the parking garage, as the second building, not from the end opposite the second building, as in the case of Applicant's invention.

- d. Applicant respectfully submits that the Higgs Article does not teach a tent-like structure that "substantially blocks the view of the screen from outside."

In Applicant's invention, one of the purposes for constructing the screen on the opposite end of the parking garage, i.e., opposite the second building, is so that the two structures can form a visual barrier along opposite ends of the parking garage, and, wherein, the shopping mall building along the third side can help to form an additional visual barrier along that side, i.e., a barrier along three sides.

The Examiner alleges that the Higgs Article also shows a visual barrier that extends along three sides, wherein the combination of the tent, the shopping mall building, and the screen forms the necessary visual barrier.

In response, Applicant would like to direct the Examiner's attention to Figure 6 of the Higgs Article, which shows the tent sitting on the parking garage on the left hand side as being sloped, angled, and shaped, in relation to the parking garage, such that it extends at only about a 30 degree angle relative to the parking garage. The tent also has four posts, forming narrow apexes along the top, and a fabric sloped at an angle downward. That being the case, it should be clear that someone who wants to view the screen could easily do so, i.e., the tent does not provide a visual barrier on that side of the parking

U.S. Application Serial No. 10/614,436

garage. On the other hand, the significance of Applicant's invention is that the second building extends upward to block the view of the screen from that side.

For these reasons, Applicant respectfully submits that the Higgs Article does not teach this aspect of Applicant's invention.

Moreover, Applicant's invention is able to provide this visual barrier without having to create an additional structure, like a tent. That is, according to the Examiner, the Higgs Article teaches using a tent to provide a visual barrier along that end of the parking garage. However, one of the aspects of Applicant's invention is that the screen standing on its own provides a barrier on one end, without having to construct an additional structure like the tent, whereas, the second building is merely an extension of the parking garage, which provides a visual barrier along the opposite end, without having to build an additional structure like the tent.

2. Section 112 Rejection:

Claims 41, 47 and 51 stand rejected under Section 112, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner alleges that the specification fails to disclose that the barrier formed extends around three sides of the top of the parking garage. In this respect, the Examiner asserts that the specification only discloses "that the wall, orientation of the screen and projection housing helps to block others in adjacent areas such as along the main street below from being able to see the movie and blocking view from adjacent areas around the mall."

Applicant respectfully submits that, contrary to what the Examiner alleges, the specification does disclose the visual barrier extending around three sides of the parking garage. In this respect, Applicant would like to direct the Examiner's attention to language contained in the specification, and the sketches shown in the drawings, which clearly support this aspect of Applicant's invention.

For example, on page 9, lines 10-16, of the specification, Applicant states:

"In this respect, the orientation of the screen 19 on the parking garage 1, with a projector housing or building 25 located on one end, can help to close off the top floor 11. This can serve to reduce the likelihood that motorists driving along the main street below could view the images projected on the screen 19. The orientation of the entire parking garage 1 in relation to the shopping

U.S. Application Serial No. 10/614,436

mall 33, can also provide a means of blocking views from adjacent areas around the mall (emphasis added)."

Clearly, this description identifies all three sides of the parking garage, including the screen 19, the building 25, and the shopping mall 33, and describes how they contribute to forming a visual barrier around the parking garage.

Furthermore, Applicant respectfully directs the Examiner's attention to Figure 1, which clearly shows all three structures surrounding the parking garage. For example, the shopping mall structure 33 is located on the far side of the parking garage, the screen 19 is located on the left hand side, and the projector building 25 is located on the right hand side. All combined, it should be clear that the specification and drawings clearly describe and provide support for this feature of Applicant's invention.


3. Additional Comments Regarding Section 103 Rejections:

In connection with claims 43 and 50, the Examiner cites Simens as a reference, even though, previously, Applicant had successfully sworn behind that reference. Applicant respectfully requests the Examiner to review the records on file regarding this case, and to correct any references to Simens as being prior art to this application.

4. Conclusion:

For all of the above reasons, Applicant respectfully submits that the claims are in condition for allowance, and, subject to having an opportunity to amend and correct the drawings, earnestly requests the Examiner to enter a Notice of Allowance in this case.

Respectfully submitted,


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